

decision of our courts, the right of property is in the plaintiffs, and that a Court having jurisdiction of the subject would be required to restore them to their possession, unless some valid contract is shown by which the rule of law is changed.

It is urged, however, that not only did the marriage take place pursuant to the contract, but the intended husband was put in possession of the securities, and held them until the period of his death, in 1849; and the case of *Duvall et al. vs. Gittings et al.*, 3 Gill, 138, is relied upon as showing that these circumstances are sufficient to take the case out of the statute. That case undoubtedly does prove that an agreement by parol made by a father with his daughter in consideration of her marriage, and as a marriage endowment, is founded on a valuable consideration, and that upon the consummation of the marriage, and the delivery of the possession of the property to the daughter, the case is taken out of the operation of the statute, and will be enforced in equity. In the case of *Cannel vs. Buckle*, 2 Peere Wms., 243, it was held by Lord Macclesfield, that a bond given by a woman to her intended husband, that in case of their marriage she would convey her land to him, would, after the marriage, be enforced in equity, though the bond is void at law, and this case is cited with approbation by Mr. Justice Story. 2 Story's Eq., sec. 739. The case of *Acton vs. Peirce*, 2 Vernon, 480, is to the same effect, and proves that a bond given to the wife by the husband before marriage, to leave her one thousand pounds, though extinguished at law by the marriage, will be enforced in equity, and numerous cases cited in the notes confirm this position.

Considering, therefore, the agreement as resting upon a valuable consideration, and that if in writing it would be enforced in a Court of Equity, and though unlike in some essential features, the case of *Dugan vs. Gittings*, it might be extricated from the operation of the statute of frauds if attended with some other circumstances which existed in that case, it remains to be seen whether the circumstances are the same in substance, because if substantially the same, a difference in detail or particulars cannot vary the principle applicable to them.